Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

No. 74-1025

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

BURTICE A. HINES, ET AL., *Petitioners,*

v.

ANCHOR MOTOR FREIGHT, INC., ET AL., *Respondents.*

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

RESPONDENT, LOCAL UNION NO. 377's OBJECTIONS TO THE MOTION OF PROD, INC., JAMES BANYARD AND GEORGE E. KISS FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

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Pursuant to Rule 42, ¶ 4 of the Rules of this Court, respondent Local Union No. 377 objects to the motion

of PROD, Inc., James Banyard and George E. Kiss for leave to file a brief as *amici curiae* because that brief is an imposition on the Court:

1. PROD, Inc., James Banyard and George E. Kiss seek leave to file a brief raising an issue that is not properly before this Court. No claim was made either in the district court or in the court of appeals that joint grievance committee rulings are unworthy of judicial deference. Indeed, the record is barren of evidence relating to the operation of joint grievance committees and proposed amici's sources with respect thereto are altogether secondary. Under these circumstances there is surely "no cause for deviating from our normal policy of not considering issues which have not been presented to the Court of Appeals and which are not properly presented for review here." *Neely* v. *Eby Construction Co.*, 386 U.S. 317, 330. See also *Adickes* v. *Kress & Co.*, 398 U.S. 144, 147, n. 2. Nor is the issue fairly encompassed within the petition for certiorari which this Court agreed to consider in its limited grant. Accordingly, PROD et al. are in violation of this Court's Rule 23.1(c). See e.g., *F. D. Rich Co.* v. *Industrial Lumber Co.*, 417 U.S. 116, 121, n. 6. Since the issue may not properly be reviewed here, the tendered brief has no relevance whatever to the disposition of this case.

2. PROD, Inc., James Banyard and George E. Kiss have no adequate interest in this litigation. PROD's claimed membership together with Messrs. Banyard and Kiss are complete strangers to the collective bargaining agreement involved in this case, and prove it by presenting argument addressed to the operation of an essentially different grievance procedure under a

contract not involved in this case, the National Master Freight Agreement.

Respectfully submitted,

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